

November 4, 2011

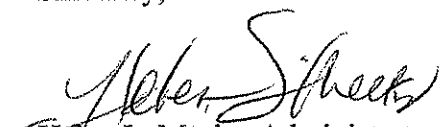
KIDS IMAGINATION STATION  
1338 South Street  
Lincoln, NE 68502

Dear Ms Gail Smith, Center Director:

In accordance with the Notice of Disciplinary Action issued on October 19, 2011 by Joann Schaefer, MD, Chief Medical Officer and Director, Division of Public Health, Department of Health and Human Services, your original License to operate a Child Care Center in the State of Nebraska has been placed on probation. A license imprinted with the term "PROBATION" is enclosed. This status became effective November 3, 2011, and it will remain in effect until November 3, 2012. Upon completion of the probation, a new license will be issued to you.

At this time we ask that you return your current license, within the next ten (10) days, to Marsha Wandersee in the Licensure Unit. If you have any questions, please contact Child Care Licensing at (402) 471-9302.

Sincerely,

  
Helen L. Meeks, Administrator  
Licensure Unit

HLM/dcp

cc: Child Care Licensing

This license shall be kept available in the establishment and such proof of credentialing shall be shown upon request.

# State of Nebraska

## PROBATION

Department of Health and Human Services  
Division of Public Health

### GAIL SMITH

Is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an  
Operating **Child Care Center**  
located at: **1338 SOUTH ST LINCOLN NE 68502**

A maximum of **60** children in ages **2 YRS** to **13 YRS** may be in attendance at any one time during the  
hours of **0600** to **1800** on **MTWTFs**

**KIDS IMAGINATION STATION** is hereby issued License No. **CCC7123** which is  
effective on **03/05/2003**

**Amended: 11/03/2011**

Given under the name and Seal of the Department  
of Health and Human Services Regulation and  
Licensure of the State of Nebraska at Lincoln on  
**November 7, 2011.**



*Joann Schaefer*  
Joann Schaefer, MD, Chief Medical Officer, Director  
Division of Public Health, Department of Health and Human Services

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH  
STATE OF NEBRASKA**

<b>IN THE MATTER OF:</b>	)	
<b>THE OPERATING CHILD CARE CENTER</b>	)	<b>NOTICE OF</b>
<b>LICENSE OF GAIL SMITH, KIDS IMAGINATION</b>	)	<b>DISCIPLINARY ACTION</b>
<b>STATION</b>	)	

**LICENSED LOCATION: 1338 SOUTH STREET, LINCOLN, NE, 68502**

**NOTICE:**

Gail Smith (hereinafter referred to as "Smith") is hereby notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") intends to impose disciplinary action against Smith's Child Care Center license for violation of the following:

**AUTHORITY:**

Nebraska Revised Statutes, section 71-1919, of the Child Care Licensing Act provides that "the Department may ... take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

- (1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act; ...
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;  
...

391 NAC 8-002 Staff Qualifications: ... "Center staff, whether paid or volunteer, shall not engage in or have a history of behaviors injurious to or which may endanger the health or morals of the children in care." (Page 6, Standard 13, Child Care Center Standards)

391 NAC 8-009 Staffing: "Each room where children are receiving care must include a teacher/assistant teacher." (Page 8, Standard 32, Child Care Center Standards)

"Center staff or any person designated by the licensee as having responsibility for children shall have the responsibility to provide adequate and appropriate supervision at all times children are in attendance." ... (Page 9, Standard 36, Child Care Center Standards)

## **FACTS AND FINDINGS:**

Smith is the licensee of an operating Child Care Center. This program is licensed for a maximum of 60 children, two years to 13 years of age, 6:00 a.m. to 6:00 p.m., Monday through Saturday. This program has been licensed since March 5, 2002.

On July 28, 2011 and August 1, 2011, Children's Services Licensing staff, Children and Family Services staff, and the Lincoln Police Department conducted a complaint investigation regarding allegations that on July 18, 2011, a five-year-old child was missing from the center for approximately 43 minutes.

Based on interviews with Gail Smith, licensee and director; Marla Saum the assistant director, and staff employed at Kids Imagination Station, it was substantiated that the above regulations had been violated. The facts are as follows:

- On July 18, 2011 at approximately 4:00 p.m., a five-year-old child (S.H.) was found approximately one to two blocks from Kids Imagination Station near BryanLGH Hospital by an individual who called law enforcement. Law enforcement transported the child to the hospital because the child was hot, sweating and unable to communicate.
- At approximately 4:35 p.m., law enforcement contacted Kids Imagination Station to inquire of them if a child was missing from their center. Staff thought it was probably S.H. At 4:43 p.m., law enforcement came to Kids Imagination Station and showed staff a cell phone photo of the child. Staff positively identified that S.H. was from Kids Imagination Station. S.H.'s father was contacted about the incident.
- Neither Smith nor the staff were aware that the five-year-old child was missing from the center nor did they know how long the child had been missing. Smith and the staff were aware that S.H. was autistic, non-verbal, did not like a lot of noise or commotion and will run from adults. They were also aware that S.H. would leave the classroom frequently and that S.H. likes a set pattern/routine. S.H. has been in care for approximately three years.
- Since the incident, the program has installed alarms on the door. However, on July 20, 2011, there was another incident where S.H. left the building and the alarm did not sound. Child was seen going out the back door and was retrieved by staff. A more structured program and one-on-one supervision have been developed for S.H.

## **DISCIPLINARY ACTION IMPOSED:**

Based upon the facts set out above, the Department intends to impose the following:

1. The Child Care Center license is placed on Probation for a period of one year effective November 3, 2011, which is 15 days after the mailing of this Notice. Terms and conditions include:
  - a. A child to staff ratio of one (1) to one (1) will be maintained for S.H. Smith must have an identified staff assigned to S.H. on a daily basis.
  - b. By February 1, 2012, which is 90 days after the effective date of this Notice (November 3, 2011), Gail Smith, licensee and center director, Marla Saum, assistant director and all staff currently employed at Kids Imagination Station who have the responsibility of caring for children (which includes director, assistant/co-director, teacher, assistant teacher, substitutes, volunteers, vehicle drivers and/or cooks) will at the program's

expense, register/enroll, attend and successfully complete a minimum of two hours in a face-to-face training in the area of providing adequate and appropriate supervision at all times children are in care.

Smith must, prior to herself, Marla Saum and the staff participating in any training, submit in writing the following to the Department, Attention: Marvie Sullivan, Child Care Inspection Specialist, Children's Services Licensing, Division of Public Health, Licensure, P.O. Box 98933, Lincoln, Nebraska, 68509 in order for the Department to determine if the training meets the requirements for which it is intended: names of Kids Imagination Station staff attending, training curriculum, date and time of training, name of the training, presenter/instructor's name, and the number of hours. This training will not count toward the required 12 hours of in-service training.

Upon receipt of the above information, the Department will either approve or require additional information in writing from Smith within ten working days of the receipt of the letter requesting approval of the training. If additional information is required, Smith agrees to reply within ten calendar days of notice by the Department.

Smith must submit verification of attendance and successful completion by all staff responsible for the care of children as well as herself and Marla Saum, within fifteen calendar days after completion of the approved training to the Department at the address listed above.

c. Smith must enroll in, attend and successfully complete the Child Care Management Training Program offered by the Early Childhood Training Center within the one year probation period. Smith must submit copies of all certificates (Certificate of Attendances, Certificate of Completions and Certificate of Achievements) issued by the Training Center to the Department at the address listed above.

d. Smith must develop and submit to the Department at the address listed above, a written supervision policy and procedure which incorporates the use of checklists, frequent monitoring, accountability and training of staff on this supervision policy/procedure who are responsible for caring for children; which includes: director, assistant/co-director, teacher, assistant teacher, substitutes, volunteers, vehicle drivers and/or cooks. This policy/procedure must also include language as to how the program will ensure that adequate and appropriate supervision is maintained at all times children are in attendance inside the facility itself and on and off the premises.

These policies/procedures must be submitted to the Department at the address listed above for approval by November 18, 2011, which is 15 calendar days after the effective date of this Notice. The Department agrees that after reviewing the policies/procedures, it will either approve it or require modifications thereto within ten calendar days. If modifications are required, Smith agrees to reply within ten calendar days of notice by the Department by resubmitting the written policies/procedures to the Department for approval. The Department reserves the right to make minor unilateral modifications to the written policies/procedures. Once approved by the Department, Smith agrees to implement the written policies/procedures as approved by the Department.

e. Smith must have signed documentation that all staff responsible for children and all future employees responsible for children are familiar and are trained in the policies/procedures. Documentation must be maintained on site and available for review upon request by the Department.

2. During the probationary period, Smith must maintain compliance with all Child Care Center regulations. Compliance will be monitored by Children's Services Licensing staff and may be monitored by other Department representatives (i.e., Fire Marshal or designated agent, Environmental Health Specialist or

designated agent, Resource Development Worker, Children and Family Specialist, etc). Smith and any employees and/or agents must cooperate with the Department in these monitoring inspections.

3. A copy of this Notice of Disciplinary Action must be posted with the current child care license so it is clearly visible to parents and agency representatives.

4. Failure to comply with the terms of this disciplinary action and the Child Care Center Regulations will be grounds for revocation or such other discipline as the Department may deem appropriate after notice to the licensee and an opportunity for a hearing.

5. If Smith discontinues the child care program for any reason, the time Smith is not actively operating a licensed child care program will not count toward the probation period and any subsequent child care license issued by the Department shall be subject to the remainder of the probation period. Smith must notify the Department, in writing, within seven (7) calendar days of any period she is not actively operating the program. Any subsequent child care license issued by the Department indicating Gail Smith as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period.

**BE ADVISED:**

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on November 3, 2011, which is fifteen days after the mailing of this Notice unless the Department, within such fifteen-day period, receives a written request for a hearing. The license shall continue in effect until the final order of the director if a hearing is requested. If the director does not receive such request within such fifteen-day period, the action of the Department is final.

If you decide to request a hearing, your written request for hearing must be received by the Department no later than November 3, 2011, which is fifteen days after the mailing of this Notice. It should be addressed to:

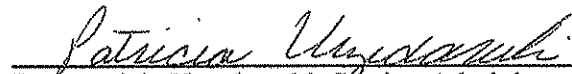
Marsha Wandersee, for DHHS  
Children's Services Licensing  
Licensure – Division of Public Health  
P.O. Box 94986  
Lincoln, NE 68509-5986

That Nebraska Revised Statutes, section 71-1923 of the Child Care Licensing Act, provides that "a licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time, except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the Department has initiated disciplinary action against the licensee.

In addition, Title 391 of the Nebraska Administrative Code, section 3-001.08, provides that "amended applications will not be processed whenever a negative license action is pending."

Dated: OCTOBER 19, 2011

**Joann Schaefer, M.D.**  
**Chief Medical Officer**  
**Director, Division of Public Health**  
**Department of Health and Human Services**

  
By: Patricia Urzedowski, Section Administrator  
Children's Services Licensing  
Nebraska Department of Health and Human Services  
Division of Public Health - Licensure  
P.O. Box 94986  
Lincoln, NE 68509-4986

**CERTIFICATE OF SERVICE**

COMES NOW, the undersigned and certifies that on the 19th day of October, 2011, a copy of the foregoing **NOTICE OF DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid to Gail Smith, Kids Imagination Station, 1338 South Street, Lincoln, Nebraska, 68502.

